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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* GAVIN BREBNER and MARCUS A. SMITH

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Appeal 2007-3434  
Application 09/881,211  
Technology Center 2100

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Decided: April 15, 2008

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Before JAMES D. THOMAS, LANCE LEONARD BARRY  
and JAY P. LUCAS, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 through 19. We have jurisdiction under 35 U.S.C. § 6(b).

As best representative of the disclosed and claimed invention, independent claim 1 is reproduced below:

1. A hard-copy output device, comprising:  
  
a memory for storing location data;  
  
a network interface; and  
  
a HTTP location server for receiving and storing location data in the memory and for responding to client requests received via the network interface to return location information comprising, or derived from, the location data stored in memory.

The following references are relied on by the Examiner:

Wolff	US 6,738,841 B1	May 18, 2004 (filing date August 25, 1999)
Shaffer	US 6,748,426 B1	Jun. 8, 2004 (filing date June 15, 2000)

Claim 9 stands rejected under the second paragraph of 35 U.S.C. § 112 for indefiniteness. All claims on appeal, claims 1 through 19, also stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the Examiner relies on Shaffer in view of Wolff.

Rather than repeat verbatim the positions of the Appellants and the Examiner, reference is made to the Brief (no Reply Brief has been filed) for Appellants' positions, and to the Answer for the Examiner's positions.

#### OPINION

Turning initially to the rejection of dependent claim 9 under the second paragraph of 35 U.S.C. § 112, we sustain this rejection for the reasons set forth by the Examiner at pages 3 and 7 of the Answer. Claim 9 depends from claim 8. Claim 8 recites the feature "a reliability indicator."

As the Examiner's positions indicate, dependent claim 9 recites the feature of "the related reliability indicators." Thus, the Examiner is technically correct that there is insufficient antecedent basis for this limitation.

Appellants' arguments at page 3 of the Brief take a simplistic view of claim 9. The Examiner is correct in the observation at page 7 of the Answer that there appears to be a plurality of reliability indicators that are stated or otherwise implied from the entire recitation of dependent claim 9. There is no positive statement of any plurality of reliability indicators that have been provided according to the claim's dependencies, let alone any "relative reliabilities" among them, that is, among recited stored and newly received "reliability indicators." Therefore, the Examiner is correct in rejecting this claim under the second paragraph of 35 U.S.C. § 112.

We also sustain the separate rejection of claims 1 through 19 under 35 U.S.C. § 103, essentially for the reasons set forth by the Examiner in the Answer, as expanded upon and clarified here. Essentially, the Brief argues all claims 1 through 19 collectively. There is no distinction argued before us regarding the recitation of the network interface in independent claims 1 and 3, where this recitation is not in independent claim 11. Likewise, the HTTP (hyper text transfer protocol) location server is only recited in independent claim 1 and not in independent claims 3 and 11. Correspondingly, the wireless interface is only recited in independent claim 3 and not in independent claims 1 and 11. Moreover, independent claim 11 recites that the location server is merely potentially operative to convert location data and not that it actually does operate to perform such functionality as set forth in the last four lines of that claim.

Although we agree with Appellants' basic view as to Shaffer from the Brief that this reference does not in fact teach a hard-copy output device, each of the independent claims 1, 3, and 11 on appeal does not require one anyway. The feature of a "hard-copy output device" is only set forth in the preamble of each independent claim 1, 3, and 11 and is not referred to directly or by any measure of antecedent basis by the specific structural recitations in the body of each of these claims. In contrast to the Appellants' views at page 5 of the Brief, this merely amounts to an intended use of a structure that is not positively recited in the body of these claims. For example, the claimed feature of a memory for storing location data does not in fact require that the location data be related to the hard copy output device of the preamble. Thus, as the Examiner appears to express at page 8 of the Answer, the feature of location data is not recited to be with respect to any device notwithstanding Appellants intended disclosed feature of it being indicative of the printer location as disclosed figures 4 and 5 so indicate.

Still, it must be recognized that the Examiner's reasoning processes effectively give meaning to the preamble's only recitation of "a hard copy output device" in the form of a printer by the Examiner's positive reliance on the teachings of Wolff in addition to those of Shaffer.

As the title of Shaffer reveals in the field of invention statement at the top of column 1 of this reference, the details of Shaffer generally relate to linking information in a global computer network between different parties/nodes. Figures 1A, 1B reveal there are plural labels/types of servers usable to provide location data sought by a user/customer, where the data is stored in memory and retrieved and so provided to a client/customer. Figure

5 shows broad request and retrieve capabilities of the Shaffer invention to the extent recited in the claims and not otherwise argued. A client or customer in Shaffer requests or otherwise seeks location information of different types/embodiments/categories of information provided by Shaffer's system. A wireless capability is contemplated by Shaffer, such as recited in independent claim 3, by Shaffer's disclosure of customer device 14. The middle of column 10 begins a discussion of figure 1A and includes wireless telephones 14A and personal digital assistants (PDAs). Because figure 1A shows personal computers 14C, the artisan would have clearly appreciated the corresponding teachings of the printers in Wolff which are normally well known to be associated with such personal computers.

Wolff shows in figures 1 and 2 a capability of processing document requests at a printer server 255 which includes the printer 250. This combination of printer server and printer devices is also displayed in figure 9 to be directly related to the use of a wireless device, a PDA 930. What is most significant about the Examiner's reliance upon Wolff as well is the relied upon teaching at column 6, lines 20 through 31 of the user's capability of selecting a printer by presenting the user with a network page showing printer locations and including even a hypertext map of the printers.

Obviously, within 35 U.S.C. § 103, the artisan would have well appreciated the manner in which these teachings dovetail with and relate directly to the generic teachings of Shaffer as we outlined earlier. Therefore, in addition to the Examiner's detailed combinability arguments at pages 8 and 9 of the Answer, the references themselves would have been easily interpreted by the artisan as providing a motivation or suggestion to combine

the respective teachings to the extent broadly claimed. Notwithstanding these considerations, the Examiner's reliance upon the brief discussion beginning at column 8, line 48, with respect to the figure 9 embodiment utilizing a PDA 930, address information is supplied to this device wirelessly where this information includes address/location information. To the extent recited in the claims on appeal, this is a compelling teaching as well.

In view of the foregoing, we have sustained the rejection of claim 9 under the second paragraph of 35 U.S.C. § 112. We have also sustained the rejection of claims 1 through 19 under 35 U.S.C. § 103. Since Appellants has not shown any error in the Examiner's positions with respect to these rejections, the decision of the Examiner rejecting all claims on appeal is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. §1.136(a). See 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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